



January 30, 2004

SENATE BILL No. 465

DIGEST OF SB 465 (Updated January 29, 2004 9:02 am - DI 77)

Citations Affected: IC 1-1; IC 3-9; IC 4-15; IC 4-23; IC 5-15; IC 6-3.1; IC 10-18; IC 14-8; IC 14-9; IC 14-10; IC 14-12; IC 14-20; IC 14-21; IC 14-34; IC 20-11; IC 20-14; IC 23-14; noncode.

Synopsis: Indiana library and historical department. Establishes the office of the commissioner, the administrative division, the state library, the Indiana war memorials commission, the division of state museums and historic sites (currently under the department of natural resources), and the division of historic preservation and archeology (currently under the department of natural resources) within the Indiana library and historical department (department). Provides that the commissioner of the department is appointed by the governor. Provides that the library board has control of the state library. Increases the number on members on the state library board. Transfers duties of the historical bureau to the state library, the state museum, and the division of state museums and historic sites. Transfers the duties of the commission on public records to the state library. Cancels the historical bureau's FY 2004-2005 appropriation. Makes conforming amendments.

Effective: July 1, 2004; January 1, 2005; July 1, 2005.

Merritt

January 13, 2004, read first time and referred to Committee on Natural Resources.
January 29, 2004, amended, reported favorably — Do Pass.

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SB 465—LS 7279/DI 77+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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SENATE BILL No. 465

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 1-1-13-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2004]: Sec. 1. The governor shall issue an
3 annual proclamation setting apart the twenty-fifth day of February for
4 the recognition of George Rogers Clark and designating that day as
5 "George Rogers Clark Day". On this commemorative day, the Indiana
6 ~~Historical Bureau~~, **state museum**, the schools of Indiana and the
7 citizens of Indiana are exhorted to celebrate the memory of George
8 Rogers Clark by holding suitable exercises in fitting and patriotic
9 observance of his great contributions to the cause of American
10 Independence which include conquering and securing the Northwest
11 Territory and establishing and promoting the first permanent American
12 settlement in the Northwest Territory.

13 SECTION 2. IC 1-1-14-1 IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2004]: Sec. 1. The governor shall issue a
15 proclamation each year designating July 13 as "Northwest Ordinance
16 Day" and exhorting the Indiana ~~Historical Bureau~~, **state museum**, the
17 educational, historic, and patriotic organizations of Indiana, and the

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citizens of Indiana to celebrate the anniversary of the adoption of the Northwest Ordinance by holding suitable exercises in fitting and patriotic observance of this great document and its contributions to freedom and democracy.

SECTION 3. IC 3-9-2-13, AS AMENDED BY P.L.176-1999, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. An individual may not solicit or receive a contribution in violation of the following statutes:

(1) IC 4-23-7-3.5 (Indiana Library and Historical Department).

(2) IC 4-23-7.1-38 (Indiana State Library).

~~(3) IC 4-23-7.2-17 (Indiana Historical Bureau):~~

~~(4) (3)~~ IC 8-23-2-3 (Indiana Department of Transportation).

~~(5) (4)~~ IC 14-9-7-1 and IC 14-10-3-10 (Department of Natural Resources).

SECTION 4. IC 4-15-2-3.8, AS AMENDED BY P.L.2-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.8. "State service" means public service by:

(1) employees and officers, including the incumbent directors, of the county offices of family and children; and

(2) employees and officers, except members of boards and commissions or individuals hired for or appointed to, after June 30, 1982, positions as appointing authorities, deputies, assistants reporting to appointing authorities, or supervisors of major units within state agencies, irrespective of the title carried by those positions, of the division of disability, aging, and rehabilitative services, Fort Wayne State Developmental Center, Muscatatuck State Developmental Center, division of mental health and addiction, Larue D. Carter Memorial Hospital, Evansville State Psychiatric Treatment Center for Children, Central State Hospital, Evansville State Hospital, Logansport State Hospital, Madison State Hospital, Richmond State Hospital, state department of health, Indiana School for the Blind, Indiana School for the Deaf, Indiana Veterans' Home, Indiana Soldiers' and Sailors' Children's Home, Silvercrest Children's Development Center, department of correction, Westville Correctional Facility, Plainfield Juvenile Correctional Facility, Putnamville Correctional Facility, Indianapolis Juvenile Correctional Facility, Indiana State Prison, Indiana Women's Prison, Pendleton Correctional Facility, Reception and Diagnostic Center, Rockville Correctional Facility, Youth Rehabilitation Facility, Plainfield Correctional Facility, department of fire and building services, state emergency management agency (excluding a county emergency management

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organization and any other local emergency management organization created under IC 10-14-3), civil rights commission, criminal justice planning agency, department of workforce development, ~~Indiana historical bureau~~, Indiana state library, division of family and children, Indiana state board of animal health, Federal Surplus Property Warehouse, Indiana education employment relations board, department of labor, Indiana protection and advocacy services commission, commission on public records, Indiana horse racing commission, and state personnel department.

SECTION 5. IC 4-23-7-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 0.5. (a) The definitions of this section apply throughout the chapter.**

(b) "Board" refers to the Indiana library board established by section 2 of this chapter.

(c) "Commissioner" refers to the commissioner of the department.

(d) "Department" refers to the Indiana library and historical department established by section 1 of this chapter.

(e) "State library" refers to the Indiana state library established by section 3 of this chapter.

SECTION 6. IC 4-23-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. (a) There is hereby created and established a department of the state government which shall be known as the Indiana library and historical department.**

(b) The office of the commissioner of the department is established.

(c) The governor shall appoint the commissioner, who serves at the pleasure of the governor. The commissioner is the executive and chief administrative officer of the department.

(d) The commissioner must have both of the following:

(1) A graduate degree in library science or management, archives management, museum studies, history, historic preservation, archeology, or a closely related field.

(2) At least ten (10) years of professional experience in one (1) or more of the following disciplines:

(A) Library management.

(B) Information and forms management or archives management.

(C) Managing a museum or historic site.

(D) Historic preservation or archeology.

(e) The commissioner is entitled to compensation in an amount

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to be fixed by the Indiana department of administration with the approval of the governor.

(f) The commissioner may do the following:

(1) Appoint and remove the director of each division of the department.

(2) Delegate authority to appropriate department staff.

(3) Appoint advisory councils to consult and advise on the work of the department and its divisions.

(g) The commissioner shall supervise the work of the department and of each of the divisions of the department.

(h) Employees of each division, except the director, shall be selected by the director of the division with the approval of the commissioner and may be removed by the director for cause at any time with the approval of the commissioner.

(i) The budget agency shall fix the compensation of the director of each division. The director shall fix the compensation of the employees of the division with the approval of the commissioner and the budget agency.

(j) All department employees are covered under IC 4-15-2.

SECTION 7. IC 4-23-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The management and control of the Indiana ~~state library and historical department~~ is hereby vested in a board which shall be known as the Indiana library ~~and historical~~ board, and which ~~shall consist~~ **consists** of ~~five (5)~~ **eight (8)** members. ~~who shall be appointed by the governor; as hereinafter provided: In the first instance; one (1) of such members shall be appointed for a term of one (1) year; one (1) member for a term of two (2) years; one (1) member for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter all~~ **The commissioner of the department shall serve as an ex officio member of the board. The other seven (7) members shall be appointed for terms of four (4) years. No person shall be appointed as a member of the Indiana library and historical board unless he the individual is a citizen of high standing and probity and has a known and active interest in library or historical archival work. One (1) member of the library and historical board shall be appointed on recommendation of the state board of education, one (1) member shall be appointed on recommendation of the Indiana library, trustee association, one (1) member shall be appointed on recommendation of the Indiana library association, one (1) member shall be appointed on recommendation of the Indiana historical society, and one (1) member the other members shall be selected and appointed by the governor. Except for the commissioner, the**

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1 members of the board shall serve without compensation, but shall be
 2 entitled to receive their actual expenses necessarily incurred in
 3 attending the meetings and transacting the business of the board, and
 4 in participating in such other activities as may be in the interest of the
 5 ~~department~~ **state library**. Any vacancy which may occur in the
 6 membership of the board for any cause shall be filled by appointment
 7 by the governor for the unexpired term, either on recommendation of
 8 the board, association or society hereinbefore authorized to make
 9 recommendations, or by selection by the governor, as hereinbefore
 10 provided. The board may prepare plans subject to the approval of the
 11 ~~governor commissioner~~ and advise with the proper officials in the
 12 construction of alterations and additions to the building and provide
 13 necessary equipment and furnishings within the appropriations of funds
 14 for these purposes. The board may receive and administer any state or
 15 federal aid which may become available for the improvement and
 16 development of library and historical services in Indiana.

17 SECTION 8. IC 4-23-7-2.1 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. (a) The ~~Indiana~~
 19 ~~library and historical~~ board shall elect one (1) of its members as
 20 president, another as secretary, and such other officers as it determines,
 21 each of whom shall hold office for a term of one (1) year.

22 (b) The board may designate the director of the state library ~~or the~~
 23 ~~director of the historical bureau~~ as the executive secretary of the board
 24 with duties as prescribed by the board.

25 SECTION 9. IC 4-23-7-3 IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2005]: Sec. 3. The ~~Indiana library and historical~~
 27 department consists of ~~two (2) the office of the commissioner and the~~
 28 following divisions:

29 (1) **The administration division.**

30 (2) The Indiana state library. ~~and~~

31 (3) **The Indiana war memorials commission.**

32 (4) **The division of state museums and historic sites.**

33 (5) The ~~Indiana historical bureau~~ **division of historic**
 34 **preservation and archeology.**

35 SECTION 10. IC 4-23-7-3.2 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.2. In perfecting the
 37 internal organization of the department, the ~~board commissioner~~ may
 38 so apportion the duties of the department and of the several divisions
 39 thereof that like services in the various divisions may be performed by
 40 the same employee or employees for the entire department.

41 SECTION 11. IC 4-23-7-3.5 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. No member of the

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1 ~~library and historical~~ board nor any director or other employee of the
 2 department shall directly or indirectly solicit subscription or
 3 contribution for any political party or political purpose, or be forced in
 4 any way to make such contribution, or be required to participate in any
 5 form of political activity.

6 SECTION 12. IC 4-23-7-5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. Subject to the
 8 provisions of this chapter, the ~~library and historical~~ board shall
 9 ~~formulate adopt~~ rules and regulations for the care, management, and
 10 expansion of the ~~state library and historical department~~ so that the
 11 ~~department and its several divisions~~ **state library** may at all times be
 12 operated according to the most approved standards of library and
 13 ~~historical~~ service.

14 SECTION 13. IC 4-23-7-5.2 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.2. The ~~Indiana library~~
 16 ~~and historical~~ board may accept gifts, bequests, and devises of personal
 17 and real property for the maintenance, use, or benefit of the ~~Indiana~~
 18 ~~state library and historical department~~ under such terms and conditions
 19 and with such obligations, liabilities, and burdens as in the judgment
 20 of the board and the ~~governor commissioner~~ is in the best interest of
 21 the ~~Indiana state library and historical department~~; However, no
 22 obligation, liability, or burden shall be assumed that is in excess of
 23 appropriations made by law for the payment of such obligations,
 24 liabilities, and burdens.

25 SECTION 14. IC 4-23-7-5.3 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.3. (a) The ~~Indiana~~
 27 ~~library and historical~~ board may, on the recommendation of the director
 28 of the state library, sell, lease, exchange, or otherwise dispose of library
 29 materials. ~~under:~~

30 (1) ~~IC 4-13-2-12; or~~

31 (2) ~~IC 4-13-2-12.5.~~

32 (b) The ~~Indiana library and historical~~ board may, on the
 33 recommendation of the director of the state library and in accordance
 34 with policies and procedures adopted by the board, sell, donate, or
 35 exchange library materials to or with other public or nonprofit libraries
 36 or historical societies.

37 (c) The ~~Indiana library and historical~~ board may, on the
 38 recommendation of the director of the state library, adopt policies and
 39 procedures for evaluating a proposal to:

40 (1) accept gifts of;

41 (2) sell;

42 (3) exchange; or

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(4) otherwise dispose of;
library materials described in IC 4-23-7.1-3.

SECTION 15. IC 4-23-7-5.4 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.4. (a) The **Indiana**
state library and historical department fund is established as a
dedicated fund to be administered by the **Indiana library and historical**
board. The ~~monies~~ **money** in the fund may be expended by the board
exclusively for the maintenance, use, or benefit of the **Indiana state**
library. ~~and historical department.~~

(b) The proceeds from the sale of items as directed by law or by the
~~Indiana library and historical~~ board, from gifts of money or the
proceeds from the sale of gifts donated to the fund, and from
investment earnings from any portion of the fund, shall be deposited in
the fund.

(c) All monies accruing in the fund are hereby appropriated
continuously for the purposes specified in this section.

(d) No portion of the fund shall revert to the general fund of the
state at the end of a fiscal year. However, if the fund is abolished, its
contents shall revert to the general fund of the state.

SECTION 16. IC 4-23-7-30 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. (a) The ~~Indiana~~
~~library and historical~~ board shall establish the council on library
automation to:

(1) conduct ongoing planning activities for library automation in
Indiana; and

(2) advance the automation goals of Indiana's libraries through the
cooperation of the appropriate library agencies and organizations.

(b) The council on library automation consists of thirteen (13)
members as follows:

(1) One (1) member from the ~~Indiana library and historical~~ board.

(2) Two (2) members from area library services authorities.

(3) Two (2) members from the Indiana cooperative library
services authority.

(4) Two (2) members from the department of education.

(5) Two (2) members from the state university library automation
committee.

(6) Two (2) members from the ~~Indiana~~ state library.

(7) Two (2) members from public libraries.

(c) With regard to the members described in subsection (b)(1)
through (b)(6), each respective entity or agency described in subsection
(b)(1) through (b)(6) shall forward its nominees for appointment on the
council to the ~~Indiana library and historical~~ board for confirmation.

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(d) The ~~Indiana library and historical~~ board shall establish a process to select the members appointed under subsection (b)(7).

(e) Except as provided in subsection (f), the terms of office for council members is three (3) years.

(f) The ~~Indiana library and historical~~ board shall establish the procedures for the council, including staggering the terms for initial members of the council.

(g) The council may do the following:

(1) Encourage planning by individual libraries and groups of libraries with regard to library automation.

(2) Annually update and distribute the statewide library automation and resource sharing plan.

(3) Submit to the ~~state library~~ board its recommendations concerning the adoption of library automation standards under IC 4-23-7.1-11(b).

(4) Encourage library automation, resource sharing, and document delivery programs that are consistent with state technology strategies, educational programs, and economic interests.

(5) Consult with appropriate agencies and organizations with an interest in library automation and resource sharing in Indiana.

(h) The council shall provide an annual report to the ~~Indiana library and historical~~ board on the council's activities and progress made towards meeting the goals in the statewide library automation and resource sharing plan. The council shall recommend to the ~~Indiana library and historical~~ board funding strategies that support the goals and initiatives contained in the statewide plan.

SECTION 17. IC 4-23-7.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

(1) "Advisory council" refers to the Indiana state library advisory council established by section 39 of this chapter.

(2) "Agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

(3) "Board" means the Indiana library ~~and historical~~ board established by IC 4-23-7-2.

(4) **"Commissioner" refers to the commissioner of the department.**

(5) "Department" means the Indiana library and historical department established by IC 4-23-7-1.

~~(5)~~ (6) "Director" means director of the Indiana state library.

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(6) "Historical bureau" (7) "Division" means the Indiana historical bureau division of state museums and historic sites established by IC 4-23-7-3.

(7) (8) "Public library" has the meaning set forth in IC 20-14-1-2.

(8) (9) "State library" means the Indiana state library established by IC 4-23-7-3.

(9) (10) "Statewide library card program" refers to the program established by section 5.1 of this chapter.

SECTION 18. IC 4-23-7.1-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 36. The state library shall be organized in such manner as determined by the director of the state library with the approval of the board. The duties of the state library established by law may be supplemented by the board according to its discretion.

SECTION 19. IC 4-23-7.1-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) The commissioner, with the approval of the board, shall appoint a director to be the chief administrative officer of the state library.

(b) To qualify for the position of director of the state library, a person must:

- (1) be a graduate of a college or university of recognized standing;
- (2) have had special training in the technique and organization of library service;
- (3) possess such other qualifications as the board, in its discretion, may deem necessary.

(c) The director of the state library may be removed by the board commissioner at any time for cause.

SECTION 20. IC 4-23-7.1-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 38. (a) All state library employees, except the director, shall be selected by the director with the approval of the board commissioner and may be removed by the director for cause at any time with the approval of the board commissioner.

(b) In making selections for employment, recognition shall be given to the fact that all certified librarians are under the Library Certification Act IC 20-14-12 and that other staff personnel are under IC 4-15-2.

(c) Any or all of the state library employees must have had such academic preparation and special training for the work which they are required to perform as may be prescribed in rules promulgated by the board.

(d) The board may provide that appointments may be made only

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after the applicant has successfully passed an examination given by the board or some person designated by the board.

(e) No employee of the state library may directly or indirectly solicit subscription or contribution for any political party or political purpose, or be forced in any way to make such contribution, or be required to participate in any form of political activity.

(f) The state budget agency shall fix the compensation of the director **of the state library**. The director shall fix the compensation of the employees of the state library with the approval of the **board commissioner** and the state budget agency.

SECTION 21. IC 4-23-7.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **As used in The definitions under IC 4-23-7.1-1 apply throughout** this chapter.

(1) "Agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

(2) "Board" means the Indiana library and historical board established by IC 4-23-7-2.

(3) "Department" means the Indiana library and historical department established by IC 4-23-7-1.

(4) "Director" means director of the Indiana historical bureau.

(5) "Historical bureau" means the Indiana historical bureau established by IC 4-23-7-3.

(6) "Library" means the Indiana state library established by IC 4-23-7-3.

SECTION 22. IC 4-23-7.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) **It is The duty of the historical bureau to state library may** edit and publish documentary and other material relating to the history of the state of Indiana and **to** promote the study of Indiana history.

(b) As appropriate, the **historical bureau state library** shall work with the Indiana historical society, the county historical societies, and any other person, agency, or organization concerned with Indiana history.

SECTION 23. IC 4-23-7.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **The historical bureau state library** may compile and publish digests, reports and bulletins of purely informational or statistical character on any question which the board may deem to be of interest or value to the people of the state. Any expenses which may be incurred in the publication of any such digest, report or bulletin shall be defrayed out of the funds which may be appropriated for the use of the department. **or the historical bureau**.

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1 SECTION 24. IC 4-23-7.2-4 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The ~~historical bureau~~
 3 **state library** may cooperate with any of the educational institutions of
 4 the state or other institutions, organizations or individuals for the
 5 purpose of meeting its responsibilities in any manner and to any extent
 6 which may be approved by the board.

7 SECTION 25. IC 4-23-7.2-5 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. All expenses
 9 incurred in the preparation, compilation, printing, binding and
 10 publication of the volumes of source and other historical material
 11 issued by the ~~historical bureau~~ **state library** shall be defrayed out of
 12 funds at the disposal of the ~~bureau~~ **state library** which may be
 13 appropriated by law for that purpose, and shall be printed by the
 14 ~~commission on public records, department,~~ and under the terms of any
 15 contract which the state may have executed and entered into for public
 16 printing, and under the direction and supervision of the ~~historical~~
 17 ~~bureau~~ **state library**.

18 SECTION 26. IC 4-23-7.2-6 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. One (1) copy of each
 20 publication issued by the ~~historical bureau~~ **state library** shall be
 21 furnished to each public library in the state, and the board may furnish
 22 copies free of charge to such other persons, institutions or departments
 23 as in its judgment may be entitled thereto. The copies so remaining
 24 shall be sold by the ~~bureau~~ **state library** at a price which shall be fixed
 25 by the board.

26 SECTION 27. IC 4-23-7.2-7 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The ~~historical~~
 28 ~~bureau~~ **state library** publications and educational fund is established
 29 as a dedicated fund to be administered by the ~~historical bureau~~ **state**
 30 **library**. The monies in the fund may be expended by the director of the
 31 ~~historical bureau~~ **state library** exclusively for the publication of
 32 historical documents and other material to promote the study of Indiana
 33 history, and to inform the people of Indiana concerning the history of
 34 their state.

35 (b) The proceeds from the sale of items as directed by law or by the
 36 director of the ~~historical bureau~~ **state library**, from gifts of money or
 37 the proceeds from the sale of gifts donated to the fund, and from
 38 investment earnings from any portion of the fund, shall be deposited in
 39 the ~~historical bureau~~ **state library** publications **and educational** fund.

40 (c) All monies accruing to the ~~historical bureau~~ **state library**
 41 publications **and educational** fund are ~~hereby~~ appropriated
 42 continuously for the purposes specified in this section.

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(d) No portion of the fund shall revert to the general fund of the state at the end of a fiscal year; however, if the fund is abolished, its contents shall revert to the general fund of the state.

SECTION 28. IC 4-23-7.2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The governors' portraits collection is placed in the custody of the Indiana ~~historical bureau~~ **state museum**. The collection shall be permanently displayed in public areas of the state house ~~under the supervision of the historical bureau, which is charged with its care and maintenance: or state museum.~~

(b) The ~~director~~ **commissioner** shall inspect each painting in the collection annually in the company of one (1) or more experts in the field of art conservation selected by the director **of the division**.

(c) After the inauguration of each governor, the ~~director,~~ **commissioner**, with the concurrence of the governor, shall select and commission an artist to paint the governor's portrait. The portrait must be hung in the permanent collection immediately following the completion and acceptance of the portrait by the ~~director~~ **commissioner** and the governor.

(d) The ~~historical bureau~~ **state museum** shall include in its budget requests the amount it deems necessary to provide for the proper care, maintenance, and display of the governors' portraits collection, and the amount necessary to commission the painting of an oil portrait of each governor for the collection. The ~~historical bureau~~ **state museum** may use appropriated funds or any other funds provided for these purposes.

(e) The ~~director,~~ **commissioner**, in discharging the duties under this section, shall use the appropriate cultural and technical resources of the state. ~~including the department of natural resources and the Indiana department of administration.~~

SECTION 29. IC 4-23-7.2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The governors' portraits fund is established as a dedicated fund to be administered by the ~~historical bureau~~ **division**. The monies in the fund may be expended by the director of the ~~historical bureau~~ **division** exclusively for the preservation and exhibition of the state-owned portraits of former governors of Indiana.

(b) The proceeds from the sale of items as directed by law or by the director of the ~~historical bureau~~ **division**, from gifts of money or the proceeds from the sale of gifts donated to the fund, and from investment earnings from any portion of the fund, shall be deposited in the governors' portraits fund.

(c) All monies accruing to the governors' portraits fund are hereby

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appropriated continuously for the purposes specified in this section.

(d) No portion of the fund shall revert to the general fund of the state at the end of a fiscal year; however, if the fund is abolished, its contents shall revert to the general fund of the state.

SECTION 30. IC 4-23-7.2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The ~~historical bureau~~ **state museum** shall have custody of all unsold commemorative medallions and other items that were acquired for sale to the public by the Indiana historical commission, the Indiana sesquicentennial commission, or the Indiana American revolution bicentennial commission when that commission is abolished. These medallions and other commemorative items shall be offered for sale to the public at a price determined by the director of the ~~historical bureau~~ **division**. The proceeds from the sale of such items shall be deposited in the governors' portraits fund.

SECTION 31. IC 4-23-7.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The ~~historical bureau~~ **division** shall establish the Indiana historical marker program for marking historical sites in Indiana. As a part of this program, the ~~historical bureau~~ **division** shall fix a state format for historical markers. No person may erect an historical marker in the state format without the approval of the ~~historical bureau~~ **division**. All historical markers in the state format shall be provided by the ~~historical bureau~~ **division** using appropriated funds, local matching funds, donations, grants, or any other funds provided for that purpose according to the guidelines and rules of the historical marker program.

(b) The ~~board~~ **director of the division** may appoint a historical marker advisory committee to serve without compensation. The committee may advise the ~~board and the~~ director concerning the following:

- (1) Guidelines and rules for the historical marker program.
- (2) Appropriate sites to be marked.
- (3) Other matters concerning the historical marker program as requested by the ~~board or the~~ director.

(c) Historical markers approved under this section become the property of the state. Maintenance of state historical markers is part of the historical marker program. The ~~historical bureau~~ **division** may cooperate with individuals, local and state agencies, and private institutions and organizations for the maintenance of the historical markers. Funds made available to the historical marker program, as approved by the ~~board~~ **division**, may be used for necessary maintenance.



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(d) No historical marker may be erected on a highway of the state highway system without the approval of the ~~historical bureau~~ **division** as to its historical accuracy. This provision is in addition to any other requirement of law.

SECTION 32. IC 4-23-7.2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. The ~~historical bureau~~ **state museum** shall celebrate the memory of George Rogers Clark in a manner fitting each occasion of George Rogers Clark Day, every twenty-fifth day of February, established by IC 1-1-13-1.

SECTION 33. IC 4-23-7.2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. Each state, county, township, city, town, judicial, or other public officer having ~~in his~~ charge or custody or ~~is~~ capable of supplying, or required to collect and compile the information which may be required by the ~~historical bureau~~ **department** shall supply such information promptly at the request of the ~~historical bureau~~ **department**, whether the request is oral, ~~or~~ by letter or circular, or by the filling out of blank forms provided for that purpose by the ~~historical bureau~~ **department**.

SECTION 34. IC 4-23-7.2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. The ~~board~~ **director of the state library** may appoint an advisory committee of not to exceed nine (9) members, who shall consult and advise with the director of the ~~historical bureau~~ **state library** concerning the publication of historical material, the promotion of the interest of the historical societies of Indiana, and in the conduct of the historical work of the state generally. The committee so appointed shall serve without compensation.

SECTION 35. IC 4-23-7.2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. The proceeds from the sale of all publications of the select committee on the centennial history of the Indiana general assembly, alone or in cooperation with the ~~Indiana historical bureau~~ **state library**, shall be deposited in the ~~historical bureau~~ **state library** publications and educational fund.

SECTION 36. IC 4-23-8-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 0.5. The definitions under IC 4-23-7.1-1 apply throughout this chapter.**

SECTION 37. IC 4-23-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Express power and authority is hereby given to the ~~Indiana library and historical~~ board to accept gifts, bequests and devises of personal and real property for the maintenance, use, or benefit of the ~~Indiana library and historical~~

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department.

SECTION 38. IC 4-23-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~Said Indiana library and historical~~ **The** board may accept such gifts, bequests, and devises as provided in section 1 ~~hereof, of this chapter,~~ with such terms and conditions and with such obligations, liabilities, and burdens as are imposed thereon when in the judgment of ~~said the~~ board and with the approval of the **governor commissioner** it shall be determined that it is for the best interest of ~~said the~~ department to do so. ~~Provided,~~ However, ~~That~~ no obligation, liability, or burden shall be assumed on account thereof in excess of appropriations made by law and applicable to the payment of such obligations, liabilities, and burdens.

SECTION 39. IC 4-23-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Any law to the contrary notwithstanding, any gift, bequest or devise received by ~~said Indiana library and historical the~~ board, shall not be required to be covered into the general fund, but shall be administered by ~~said the~~ board according to the terms of ~~said the~~ gift, bequest, or devise.

SECTION 40. IC 5-15-5.1-1, AS AMENDED BY P.L.1-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

"Commission" means the commission on public records created by this chapter.

"Board" means the Indiana library board established by IC 4-23-7-2.

"Director" means the director of the Indiana state library appointed under IC 4-23-7.1-37.

"State library" means the Indiana state library established by IC 4-23-7-3.

"Record" means all documentation of the informational, communicative, or decisionmaking processes of state government, its agencies and subdivisions made or received by any agency of state government or its employees in connection with the transaction of public business or government functions, which documentation is created, received, retained, maintained, or filed by that agency or its successors as evidence of its activities or because of the informational value of the data in the documentation, and which is generated on:

- (1) paper or paper substitutes;
- (2) photographic or chemically based media;
- (3) magnetic or machine readable media; or
- (4) any other materials, regardless of form or characteristics.

"Nonrecord materials" means all identical copies of forms, records,

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reference books, and exhibit materials which are made, or acquired, and preserved solely for reference use, exhibition purposes, or publication and which are not included within the definition of record.

"Personal records" means:

(1) all documentary materials of a private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of a public official, including: diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or utilized for, or circulated or communicated in the course of, transacting government business; or

(2) materials relating to private political associations, and having no relation to or effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of a public official and are not deemed public records.

"Form" means every piece of paper, transparent plate, or film containing information, printed, generated, or reproduced by whatever means, with blank spaces left for the entry of additional information to be used in any transaction involving the state.

"Agency" means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government established by the constitution, law, or by executive or legislative order.

"Public official" means an individual holding a state office created by the Constitution of Indiana, by act or resolution of the general assembly, or by the governor; all officers of the executive and administrative branch of state government; and all other officers, heads, presidents, or chairmen of agencies of state government.

"Indiana state archives" means the program maintained by the ~~commission~~ **state library** for the preservation of those records and other government papers that have been determined by the ~~commission~~ **state library** to have sufficient permanent values to warrant their continued preservation by the state.

"Forms management" means the program maintained by the ~~commission~~ **state library** to provide continuity of forms design procedures from the form's origin up to its completion as a record by determining the form's size, style and size of type; format; type of construction; number of plies; quality, weight and type of paper and carbon; and by determining the use of the form for data entry as well as the distribution.

"Information management" means the program maintained by the

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~~commission~~ **state library** for the application of management techniques to the purchase, creation, utilization, maintenance, retention, preservation, and disposal of forms and records undertaken to improve efficiency and reduce costs of recordkeeping; including management of filing and microfilming equipment and supplies, filing and information retrieval systems, files, correspondence, reports and forms management, historical documentation, micrographic retention programming, and critical records protection.

"Records center" means a program maintained by the ~~commission~~ **state library** primarily for the storage, processing, retrieving, servicing, and security of government records that must be retained for varying periods of time but should not be maintained in an agency's office equipment or space.

"Critical records" means records necessary to resume or continue governmental operations, the reestablishing of the legal and financial responsibilities of government in the state, or to protect and fulfill governmental obligations to the citizens of the state.

"Retention schedule" means a set of instructions prescribing how long, where, and in what form a record series shall be kept.

"Records series" means documents or records that are filed in a unified arrangement, and having similar physical characteristics or relating to a similar function or activity.

"Records coordinator" means a person designated by an agency to serve as an information liaison person between the agency and the ~~commission~~ **state library**.

SECTION 41. IC 5-15-5.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) This chapter applies to records:

- (1) open to the public and carrying no classification or restriction;
- (2) required to be kept confidential by federal law, rule, or regulation;
- (3) declared confidential by the general assembly; or
- (4) declared confidential by a rule adopted under specific authority for confidential records granted to an agency by the general assembly.

(b) The provisions of this chapter do not apply to state-supported colleges and universities, but the ~~commission~~ **state library** may offer its services to them.

(c) The provisions of this chapter shall in no way restrict the powers and duties of the state board of accounts as prescribed by IC 5-11.

SECTION 42. IC 5-15-5.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~There is created~~ The

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1 ~~commission on public records to state library shall~~ administer this
 2 chapter for the administrative and executive branches of state
 3 government. ~~The commission shall adopt a seal which shall be the seal~~
 4 ~~of the state of Indiana.~~ The ~~commission state library~~ shall offer its
 5 services to the legislative and judicial branches of state government.

6 SECTION 43. IC 5-15-5.1-5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Subject to
 8 approval by the ~~oversight committee on public records created by~~
 9 ~~section 18 of this chapter, board,~~ the ~~commission state library~~ shall
 10 do the following:

11 (1) Establish a forms management program for state government
 12 and approve the design, typography, format, logo, data sequence,
 13 form analysis, form number, and agency file specifications of
 14 each form.

15 (2) Establish a central state form numbering system and a central
 16 cross index filing system of all state forms, and standardize,
 17 consolidate, and eliminate, wherever possible, forms used by state
 18 government.

19 (3) Approve, provide, and in the manner prescribed by IC 5-22,
 20 purchase photo-ready copy for all forms.

21 (4) Establish a statewide records management program,
 22 prescribing the standards and procedures for record making and
 23 record keeping; however, the investigative and criminal history
 24 records of the state police department are exempted from this
 25 requirement.

26 (5) Coordinate utilization of all micrographics equipment in state
 27 government.

28 (6) Assist the Indiana department of administration in
 29 coordinating utilization of all duplicating and printing equipment
 30 in the executive and administrative branches.

31 (7) Advise the Indiana department of administration with respect
 32 to the purchase of all records storage equipment.

33 (8) ~~Establish and operate~~ **Assist the Indiana department of**
 34 **administration in establishing and operating** a distribution
 35 center for the receipt, storage, and distribution of all material
 36 printed for an agency.

37 (9) Establish and operate a statewide archival program to be
 38 called the Indiana state archives for the permanent government
 39 records of the state, provide consultant services for archival
 40 programs, conduct surveys, and provide training for records
 41 coordinators.

42 (10) Establish and operate a statewide record preservation

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laboratory.

(11) Prepare, develop, and implement record retention schedules.

(12) Establish and operate a central records center to be called the Indiana state records center, which shall accept all records transferred to it, provide secure storage and reference service for the same, and submit written notice to the applicable agency of intended destruction of records in accordance with approved retention schedules.

(13) Demand, from any person or organization or body who has illegal possession of original state or local government records, those records, which shall be delivered to the ~~commission~~ **state library**.

(14) Have the authority to examine all forms and records housed or possessed by state agencies for the purpose of fulfilling the provisions of this chapter.

(15) In coordination with the ~~data processing~~ **state information technology** oversight commission created under IC 4-23-16, establish standards to ensure the preservation of adequate and permanent computerized and auxiliary automated information records of the agencies of state government.

(16) Notwithstanding IC 5-14-3-8, establish a schedule of fees for services provided to patrons of the Indiana state archives. A copying fee established under this subdivision may exceed the copying fee set forth in IC 5-14-3-8(c).

(b) In implementing a forms management program, the ~~commission~~ **state library** shall follow procedures and forms prescribed by the federal government.

(c) Fees collected under subsection (a)(16) shall be deposited in the state archives preservation and reproduction account established by section 5.3 of this chapter.

SECTION 44. IC 5-15-5.1-5.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.3. (a) The state archives preservation and reproduction account (referred to in this section as "the account") is established as an account within the state general fund. The account shall be administered by the ~~commission~~ **state library**. The money in the account does not revert to any other account within the state general fund at the end of a state fiscal year.

(b) The account consists of fees collected under section 5(a)(16) of this chapter.

(c) Money in the account is annually appropriated to the ~~commission~~ **state library** for use in the preservation and reproduction of public records in the Indiana state archives.

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SECTION 45. IC 5-15-5.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The ~~commission~~ **state library** shall design, redesign, number, standardize, consolidate, or eliminate when obsolete, all forms used by state government, apply the definition of record to any governmental materials so questioned, and determine the nature of nonrecord materials housed or maintained by an agency. In performing these functions, the ~~commission~~ **state library** shall consult with each affected agency and shall consider each agency's statutory responsibilities, its relationships with federal or other governmental agencies, and the requirements of state law.

SECTION 46. IC 5-15-5.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The ~~commission~~ **state library** shall make the archives of the state available for public use under supervised control at reasonable hours. However, the ~~commission~~ **state library** shall weigh the need for preservation from deterioration or mutilation of original records in establishing access use to such items. The ~~commission~~ **state library** shall furnish copies of archival materials upon request, unless confidential by law or restricted by promulgated rule, and payment of such fees as may be required.

SECTION 47. IC 5-15-5.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The ~~commission~~ **state library** shall operate a central micrographics laboratory. The ~~oversight committee board~~ in coordination with the supreme court shall promulgate ~~regulations~~ **rules** concerning quality standards for microfilming documents that shall allow documents meeting those standards to be admissible in court. Such microfilming standards shall be followed by all agencies of the administrative and executive branches of state government.

SECTION 48. IC 5-15-5.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. Copies of records transferred from the office of their origin to the custody of the ~~commission~~, **state library**, when certified by the director or ~~his~~ **the director's** designee, under seal of the ~~commission~~, **state library**, shall have the same force and effect as if certified by the original custodian.

SECTION 49. IC 5-15-5.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. Each agency shall:

- (1) Make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency to protect the legal and financial rights of the government and of persons directly affected by the agency's activities.
- (2) Cooperate fully with the ~~commission~~ **state library** in

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implementing the provisions of this chapter.

(3) Establish and maintain an active and continuing program for the economical and efficient management of information and assist the ~~commission~~ **state library** in the conduct of information management surveys.

(4) Implement information management procedures and regulations issued by the ~~commission~~ **state library**.

(5) Submit to the ~~oversight committee~~, **state library**, a recommended retention schedule for each form and record series in its custody. However, retention schedules for forms and record series common to more than one (1) agency may be established by the ~~oversight committee~~ **state library**. Records may not be scheduled for retention any longer than is necessary to perform required functions. Records requiring retention for several years must be transferred to the records center.

(6) Establish necessary safeguards against the removal, alteration, or loss of records; safeguards shall include notification to all officials and employees of the agency that records in the custody of the agency may not be alienated or destroyed except in accordance with the provisions of this chapter.

(7) Designate an agency information coordinator, who shall assist the ~~commission~~ **state library** in the content requirements of the form design process and in the development of the agency's records retention schedules.

(8) Report to the ~~commission~~ **state library** before December 31 of each year those records which have been created or discontinued in the past year.

SECTION 50. IC 5-15-5.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. Title to any record transferred to the Indiana state archives as authorized by this chapter shall be vested in the ~~commission~~ **state library**. However, title to any record deposited in the Indiana state records center shall remain with the agency transferring that record.

SECTION 51. IC 5-15-5.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The ~~commission~~ **state library** shall establish and maintain a critical records program for the state of Indiana. It shall determine what records are essential to the continuity of state government operations and shall survey agency records to identify those records. The ~~commission~~ **state library** shall plan and implement a program for protection of critical records through dispersal, duplication, or secure vault storage of those records.

SECTION 52. IC 5-15-5.1-13 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. Records designated
 2 as confidential by law shall be so treated by the ~~commission~~ **state**
 3 **library** in the maintenance, storage, transfer, or other disposition of
 4 those records. Confidential records scheduled for destruction shall be
 5 destroyed in such a manner that they cannot be read, interpreted, or
 6 reconstructed.

7 SECTION 53. IC 5-15-5.1-14 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. A public official or
 9 agency may not mutilate, destroy, sell, loan, or otherwise dispose of
 10 any government record, except under a record retention schedule or
 11 with the written consent of the ~~commission~~ **state library**.

12 SECTION 54. IC 5-15-5.1-15 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) A public official
 14 who has the custody of any records, excluding personal records, shall
 15 at the expiration of ~~his~~ **the public official's** term of office or
 16 appointment, deliver to ~~his~~ **the public official's** successor, or to the
 17 ~~commission~~ **state library** if there is no successor, all materials defined
 18 as records by this chapter.

19 (b) Upon the termination of a state agency whose functions have not
 20 been transferred to another agency, the records of the state agency shall
 21 be deposited with the ~~commission~~ **state library**. The ~~commission~~
 22 **state library** shall determine which records are of sufficient legal,
 23 historical, administrative, research, or fiscal value to warrant their
 24 continued preservation. Records that are determined to be of
 25 insufficient value to warrant continued preservation shall be disposed
 26 of or destroyed.

27 SECTION 55. IC 5-15-5.1-16 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) The ~~commission~~
 29 **state library** may enter into agreements with the legislative branch of
 30 government for transfer of the permanent records of that body not
 31 having current administrative value to the Indiana state archives.

32 (b) The ~~commission~~ **state library** may enter into agreements with
 33 the Indiana supreme court and court of appeals and their clerk for
 34 transfer of the permanent records of those bodies not having current
 35 administrative value to the state archives.

36 SECTION 56. IC 5-15-5.1-17 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) A state, county,
 38 or other official may turn over to the ~~commission~~ **state library**, in
 39 accordance with the rules of the ~~commission~~ **board** for permanent
 40 preservation, any official books, records, documents, original papers,
 41 newspaper files, or printed books or materials not in current use in ~~his~~
 42 **the official's** office.

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(b) Subject to subsection (c), the ~~commission~~ **state library** may make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office for preservation in the state archives. County, city, and other officials shall permit such copies to be made of the books, records, documents, and papers in their respective offices.

(c) The ~~commission~~ **state library** shall copy the official copy of the rules (including incorporated matters filed under IC 4-22-2-21) retained by the secretary of state under IC 4-5-1-2. Any duplicate original copy possessed by another agency is not a critical record and may not be copied. If the secretary of state prepares micrographic copies of these documents under IC 4-5-1-2 and the copies are in a form that meets the specifications of the ~~commission~~, **state library**, the ~~commission~~ **state library** shall arrange with the secretary of state to obtain the number of copies needed by the ~~commission~~, **state library**, rather than copying the documents as part of a separate program.

SECTION 57. IC 5-15-5.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) ~~It is The duty of the oversight committee to:~~ **board shall:**

(1) function as the policy making body for the ~~commission~~, **state library**; and

(2) determine what records have no apparent official value but should be preserved for research or other purposes.

(b) The ~~oversight committee~~ **board** shall maintain a master list of all record series that are classified as confidential by statute or rule.

(c) The ~~oversight committee~~ **board** has final approval of all record retention schedules.

(d) The ~~oversight committee~~ **board** has final approval of a fee schedule established by the commission under section 5(a)(16) of this chapter.

SECTION 58. IC 5-15-5.1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) The ~~oversight committee~~ **board** shall:

(1) establish standards for safeguarding personal information systems that shall be followed by agencies maintaining such systems;

(2) approve the content of all forms that involve confidential records; and

(3) require use of archival quality paper for records that the ~~commission~~ **board** determines should be preserved indefinitely.

(b) The ~~oversight committee~~ **board** may adopt rules under IC 4-22-2

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necessary for the performance of its duties, consistent with this chapter and other applicable Indiana laws.

SECTION 59. IC 6-3.1-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "division" means the division of historic preservation and archaeology of the **Indiana library and historical** department. ~~of natural resources.~~

SECTION 60. IC 10-18-1-1, AS ADDED BY P.L.2-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a)** As used in this chapter, "commission" refers to the Indiana war memorials commission established by section 2 of this chapter.

(b) "Department" means the Indiana library and historical department established by IC 4-23-7-1.

SECTION 61. IC 10-18-1-2, AS ADDED BY P.L.2-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The Indiana war memorials commission is established.

(b) The commission consists of ~~ten (10)~~ **eleven (11)** members. **The commissioner of the department shall serve as an ex officio member of the commission. In addition,** each Indiana congressional district must be represented by at least one (1) member who is:

- (1) a resident of that congressional district;
- (2) a veteran of service in the armed forces of the United States of America in time of war;
- (3) a citizen of Indiana at the time of the service; and
- (4) appointed:
 - (A) in the manner;
 - (B) for the terms;
 - (C) to have the powers; and
 - (D) to perform the duties;
 as provided in this chapter.

(c) The commission:

- (1) as the commission and in the commission's name, may prosecute and defend suits; and
- (2) has all other duties, rights, and powers that are:
 - (A) necessary to implement this chapter; and
 - (B) not inconsistent with this chapter.

(d) The members of the commission are not liable in their individual capacity, except to the state, for any act done or omitted in connection with the performance of their duties under this chapter.

(e) A suit against the commission must be brought in a court with

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jurisdiction in Marion County. Notice or summons of the suit shall be served upon the president, vice president, or secretary of the commission. In a suit against the commission, it is not necessary to name the individual members of the commission as either plaintiff or defendant. Commission members may sue and be sued in the name of the Indiana war memorials commission.

(f) The commission shall:

- (1) report to the governor through the adjutant general; and
- (2) be under the ~~adjutant general~~ **commissioner of the department** for administrative supervision.

SECTION 62. IC 10-18-1-3, AS ADDED BY P.L.2-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) **This section does not apply to the commissioner of the department.**

(b) The governor shall appoint members of the commission for a term of three (3) years, subject to removal as provided in this section.

~~(b)~~ (c) The commissioners:

- (1) must be persons of high standing and character; and
- (2) serve without compensation, except for reimbursement for any reasonable expenses necessarily incurred by the commissioners in the performance of their duties.

~~(c)~~ (d) The commissioners shall be selected without regard to their political affiliations. However, not more than six (6) of the commissioners at any time may be members of the same political party.

~~(d)~~ (e) The governor may, for just cause, based upon written charges specifying alleged misconduct, remove any member of the commission, after notice to the member and a public hearing.

~~(e)~~ (f) The governor shall appoint a qualified person to fill the unexpired term of a member who does not complete the member's term.

SECTION 63. IC 10-18-1-9, AS ADDED BY P.L.2-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The **commissioner of the department, with the approval of the** commission, may employ a superintendent.

(b) The superintendent shall give bond in an amount and with surety to be approved by the commission.

(c) The superintendent's duties and compensation shall be prescribed by the **commissioner of the department, with the approval of the** commission.

SECTION 64. IC 10-18-1-10, AS ADDED BY P.L.2-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The **commissioner of the department, with the approval of the** commission shall employ an individual who

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is responsible for the care and preservation of all personal property owned by the commission that has historic significance.

(b) The individual employed ~~by the commission~~ under subsection (a) must meet the qualifications set by the division of state museums and historic sites of the department. ~~of natural resources.~~

SECTION 65. IC 10-18-1-21, AS ADDED BY P.L.2-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) The commission

(1) has general control of the State Soldiers' and Sailors' Monument Circle. ~~and~~

(2) **The commissioner of the department, with the approval of the commission,** may employ a superintendent.

(b) The superintendent may, with the ~~advice and consent~~ **approval** of the ~~commission,~~ **commissioner of the department,** appoint engineers, elevator operators, electricians, and watchmen as are actually required, all of whom are subject to removal at any time by the ~~commission for any reason satisfactory to the commission.~~ **superintendent.**

(c) The superintendent:

- (1) has direct charge and supervision of the monument and Monument Circle, subject to the orders of the commission; and
- (2) may require watchmen to act as elevator operators and elevator operators to act as watchmen.

(d) The superintendent and the engineers, watchmen, and elevator operators have police powers with all powers of a constable.

SECTION 66. IC 10-18-1-26, AS ADDED BY P.L.2-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) The commission may do the following:

(1) Make or sell the following:

(A) Pictures, models, books, and other representations of the monuments and grounds.

(B) Souvenirs.

(2) Establish and maintain souvenir shops on property that the commission manages.

(3) Hire and pay salaries for full-time or part-time employees for the souvenir shops.

(4) Contract with a nonprofit organization or corporation for the continuous management of the souvenir shops.

(5) Report annually to the ~~governor~~ **commissioner of the department** on the activities, revenues, expenditures, and profits of the souvenir shops.

(b) Notwithstanding section 27 of this chapter, the following apply

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to the profits from souvenir shop sales:

(1) The souvenir shop fund is established. The souvenir shop fund shall be administered by the commission.

(2) Profits from the sales at souvenir shops established under subsection (a) shall be deposited in the souvenir shop fund.

(3) The treasurer of state shall invest the money in the souvenir shop fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(4) The expenses of administering the souvenir shop fund shall be paid from money in the fund.

(5) The commission may spend the money in the souvenir shop fund for the following purposes:

(A) Maintenance or repair of properties managed by the commission.

(B) Maintenance, repair, and acquisition of the following:

(i) Battle flags.

(ii) Appropriate artifacts.

(iii) Appropriate memorabilia.

(6) All money accruing to the souvenir shop fund is appropriated continuously for the purposes listed in subdivision (5).

(7) Money in the souvenir shop fund at the end of a state fiscal year does not revert to the state general fund.

(c) A person may not make or sell pictures, models, books, or other representations of the monuments or grounds unless the person is authorized to do so by the commission.

SECTION 67. IC 10-18-1-28, AS ADDED BY P.L.2-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. The superintendent of the State Soldiers' and Sailors' Monument and of Monument Circle and those serving under the superintendent who are appointed ~~by the commission~~ **under section 21 of this chapter** have police powers and may make arrests or do other things as may be needed to enforce the laws for the protection and care of the monuments and Monument Circle.

SECTION 68. IC 14-8-2-48.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 48.2. "Commissioner", for purposes of IC 14-20 and IC 14-21, refers to the commissioner of the Indiana library and historical department.**

SECTION 69. IC 14-8-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 67. **(a)** "Department", **except as provided in subsection (b)**, refers to the department of natural resources.

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(b) "Department", for purposes of IC 14-20 and IC 14-21, refers to the Indiana library and historical department established by IC 4-23-7-1.

SECTION 70. IC 14-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The following divisions are established within the department:

- (1) Accounting.
- (2) Administrative support services.
- (3) Budget.
- (4) Engineering.
- (5) Entomology and plant pathology.
- (6) Fish and wildlife.
- (7) Forestry.
- ~~(8) Historic preservation and archeology.~~
- ~~(9)~~ (8) Human resources.
- ~~(10)~~ (9) Internal audit.
- ~~(11)~~ (10) Land acquisition.
- ~~(12)~~ (11) Law enforcement.
- ~~(13)~~ (12) Management information systems.
- ~~(14)~~ (13) Nature preserves.
- ~~(15)~~ (14) Oil and gas.
- ~~(16)~~ (15) Outdoor recreation.
- ~~(17)~~ (16) Public information and education.
- ~~(18)~~ (17) Reclamation.
- ~~(19)~~ (18) Reservoir management.
- ~~(20)~~ (19) Safety and training.
- ~~(21)~~ (20) Soil conservation.
- ~~(22) State museums and historic sites.~~
- ~~(23)~~ (21) State parks.
- ~~(24)~~ (22) Water.

SECTION 71. IC 14-10-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The ~~commission~~ **Indiana library and historical department** may do the following:

- (1) Take the action that is necessary to enable the state to participate in the programs set forth in 16 U.S.C. 470 et seq.
- (2) Promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Indiana history, architecture, archeology, and culture and expend money for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the ~~commission~~, **department**, that comply with the standards and regulations promulgated by the United States Secretary of the

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Interior for the preservation, acquisition, and development of the properties.

(3) Establish in accordance with criteria established by the United States Secretary of the Interior a program of matching grants-in-aid to public agencies for projects having as their purpose the preservation for public benefit of properties that are significant in American or Indiana history, architecture, archeology, and culture.

(4) Accept grants from public and private sources, including those provided under 16 U.S.C. 470 et seq.

SECTION 72. IC 14-10-2-5, AS AMENDED BY P.L.186-2003, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The department may adopt emergency rules under IC 4-22-2-37.1 to carry out the duties of the department under the following:

(1) IC 14-9.

(2) This article.

(3) IC 14-11.

(4) IC 14-12-2.

(5) IC 14-14.

(6) IC 14-17-3.

(7) IC 14-18, except IC 14-18-6 and IC 14-18-8.

(8) IC 14-19-1 and IC 14-19-8.

~~(9) IC 14-20-1.~~

~~(10) IC 14-21.~~

~~(11)~~ (9) IC 14-22-3, IC 14-22-4, and IC 14-22-5.

~~(12)~~ (10) IC 14-23-1.

~~(13)~~ (11) IC 14-25, except IC 14-25-8-3, IC 14-25-11, and IC 14-25-13.

~~(14)~~ (12) IC 14-26.

~~(15)~~ (13) IC 14-27.

~~(16)~~ (14) IC 14-28.

~~(17)~~ (15) IC 14-29.

~~(18)~~ (16) IC 14-35-1, IC 14-35-2, and IC 14-35-3.

(b) A rule adopted under subsection (a) expires not later than one (1) year after the rule is accepted for filing by the secretary of state.

SECTION 73. IC 14-10-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies to the property managers of **the following**:

(1) Each of the following divisions of the department:

~~(1)~~ (A) State parks.

~~(2)~~ (B) Forestry.

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~~(3)~~ (C) Fish and wildlife.

~~(4)~~ (D) Reservoir management.

~~(5)~~ (2) **The division of state museums and historic sites of the Indiana library and historical department.**

SECTION 74. IC 14-12-2-14, AS AMENDED BY P.L.170-2002, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The Indiana heritage trust project committee is established.

(b) The project committee consists of the following sixteen (16) members:

(1) The director of the division of fish and wildlife.

(2) The director of the division of forestry.

(3) The director of the division of nature preserves.

(4) The director of the division of state parks.

(5) The director of the division of outdoor recreation.

(6) The director of the division of state museums and historic sites **of the Indiana library and historical department.**

(7) Ten (10) individuals appointed by the governor. The governor shall appoint individuals so that all the following are satisfied:

(A) The individuals must be residents of Indiana.

(B) The individuals must have a demonstrated interest or experience in:

(i) conservation of natural resources; or

(ii) management of public property.

(C) Each Indiana congressional district must be represented by at least one (1) individual who is a resident of that congressional district.

(D) The individuals must represent the following:

(i) The environmentalist community.

(ii) The academic community.

(iii) Organized hunting and fishing groups.

(iv) The forest products community.

(v) The parks and recreation community.

SECTION 75. IC 14-20-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The division may do the following:

(1) Undertake the action necessary to qualify the state for participation in sources of federal aid to preserve historic property, materials, items, sites, and memorials.

(2) Provide information on historic property, materials, items, sites, and memorials within Indiana to federal, state, and local governmental agencies, private individuals, and organizations.

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(3) Advise and coordinate the activities of local historical associations, historic ~~district~~ **preservation** commissions, historic commissions, and other interested groups or persons.

(4) Provide technical and financial assistance to local historical associations, historic ~~district~~ **preservation** commissions, historic commissions, and other interested groups or persons.

(5) Develop a program of interpretation and publication of the state's historical, architectural, and archeological resources.

(6) Collect and preserve objects of scientific and cultural value representing past and present flora and fauna, the life and work of man, geological history, natural resources, the manufacturing arts, and fine arts.

SECTION 76. IC 14-20-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) This section applies to the negotiation and execution of a lease of historical property on which the department desires certain facilities to be provided. However, this section does not apply to a lease of historic property to:

(1) a political subdivision; or

(2) a state agency.

(b) The department shall prepare and publicize through appropriate media a statement of intent that does the following:

(1) Describes the facilities that the department desires to be provided on the historic property.

(2) Sets forth a procedure for the submission of proposals by persons proposing to lease the historic property and provide the facilities.

(c) A statement of intent prepared under subsection (b) must appear in at least three (3) legal advertisements at ten (10) day intervals in at least five (5) daily newspapers of wide and general circulation in Indiana.

(d) During the sixty (60) days following the publication of the final legal advertisement under subsection (c), proposals may be submitted to the department in response to the statement of intent. The department shall do the following:

(1) Select from the proposals submitted the one (1) proposal that the department considers most appropriate for the fulfillment of the statement of intent.

(2) Submit the proposal to the trustees ~~and the commission~~ for approval.

(e) If the proposal is approved in writing by the trustees, ~~and the commission~~, the department may negotiate a lease agreement with the party that submitted the proposal. After a lease agreement is entered

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into and set forth in writing, the department shall submit the lease agreement to the attorney general for review. A lease agreement that is:

- (1) negotiated;
- (2) executed by the authorized agents of the state and the lessee;
- and
- (3) approved by the attorney general;

under this section is a binding contract between the state and the lessee.

SECTION 77. IC 14-20-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. The ~~director~~ **commissioner** may, with the approval of the ~~commission~~, **trustees** adopt rules under IC 4-22-2 to administer this chapter.

SECTION 78. IC 14-20-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) The board of trustees for the division of state museums and historic sites is established.

(b) The trustees consist of thirteen (13) members as follows:

- (1) The ~~director commissioner, of the department~~, who shall serve as chairman.
- (2) Twelve (12) members appointed by the governor as follows:
 - (A) One (1) member of the Indiana State Museum Society nominated by the Society.
 - (B) One (1) member of the Indiana State Museum Volunteers nominated by the volunteers.
 - (C) Two (2) members must be recognized supporters of historic sites.
 - (D) Not more than seven (7) members may be members of the same political party.
 - (E) Not more than two (2) members may be from the same county.
 - (F) Each congressional district in Indiana must be represented by at least one (1) member.

(c) The terms of the appointed members shall be staggered.

SECTION 79. IC 14-20-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. The trustees shall do the following:

- (1) Nominate, when the position of division director is vacant, a person to be appointed by the ~~director~~ **commissioner** to that position. If the ~~director~~ **commissioner** rejects a nominee's appointment, the trustees shall nominate another person.
- (2) Recommend, when appropriate, the dismissal of a division director.
- (3) Make recommendations concerning the salary ranges of the

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- administrative, professional, and technical staff of the division.
- (4) Review the budget needs and requests of the division and make recommendations concerning the needs and requests to the governor through the ~~director~~ **commissioner**.
- (5) Recommend that the department accept or reject, hold, or dispose of grants of property to be administered by the division for the purpose of preservation, research, or interpretation of significant areas, events, or grants to citizens of Indiana for the purpose of preserving, studying, and interpreting archeological and natural phenomena, cultural trends, and accomplishments.
- (6) Review, guide, and assist in the development of statewide outreach programs.
- (7) Review, guide, and assist in the development of professionalism of the staff and operations.
- (8) Review, recommend, and devise methods to enable the division to do the following:
- (1) Increase the division's physical plant.
 - (2) Expand the educational areas.
 - (3) Meet storage needs.
- (9) Develop a plan of growth to meet physical, program, and financial needs for both the immediate and long range future, monitor the plan at regular intervals, and ensure that the institution stays within the developed plan.
- (10) Recommend policies, procedures, and practices that the ~~commission~~ **commissioner**, the director, and the secretary shall consider.
- (11) Give advice or make recommendations to the governor and the general assembly when requested or on the initiative of the trustees.
- (12) Review the conduct of the work of the division. To implement this duty, the trustees have access at any reasonable time to copies of all records pertaining to the work of the division.
- (13) Adopt bylaws consistent with this chapter for the division's internal control and management and file a copy of the bylaws with the director.
- (14) Hold meetings at the times and places in Indiana that are prescribed by the bylaws, but at least quarterly.
- (15) Keep minutes of the transactions of each regular and special meeting and file the minutes with the director. The minutes are public records.
- (16) Promote the welfare of the division.
- (17) Make recommendations concerning the administration of the

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fund established by section 24 of this chapter.

SECTION 80. IC 14-20-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) The ~~commission~~ **commissioner** may, on recommendation of the trustees, accept or refuse to accept an offered gift of historic property that would be administered by the department.

(b) The ~~commission~~ **commissioner** may, on recommendation of the trustees, sell, lease, or exchange historic property administered by the department under IC 4-20.5-7 or IC 5-22-22.

(c) The ~~commission~~ **commissioner** may, on recommendation of the trustees and in accordance with rules adopted by the ~~commission~~ **commissioner** under IC 4-22-2, sell, donate, or exchange artifacts in the museum's collection to or with other public or nonprofit museums or historical societies. However, the commission may donate an artifact in the museum's collection to a public or nonprofit museum or historical society under this subsection only if the museum or historical society is located in Indiana.

(d) The ~~commission~~ **commissioner** may, on recommendation of the trustees, adopt rules under IC 4-22-2 to establish a procedure for evaluating the merits of proposals to:

- (1) accept gifts of;
- (2) sell; or
- (3) exchange;

artifacts or historic property.

SECTION 81. IC 14-20-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The commission shall do the following:

- (1) Recommend legislation to do the following:

- (A) Protect the area from the environmental degradation.

- (B) Assure development of the historic, scenic, aesthetically pleasing, cultural, educational, and recreational nature of the community.

- (2) Conduct a survey of New Harmony memorabilia that is in existence and establish a plan for restoring the memorabilia to the community.

- (3) Conduct other activities that are necessary for promotion and enhancement of the area of New Harmony.

- (4) Cooperate with the department, **the department of natural resources**, and Indiana department of transportation on recommending access and egress from New Harmony.

SECTION 82. IC 14-20-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The real property

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shall be administered, maintained, managed, and controlled by the department in the same manner as the state parks **are managed and controlled by the department of natural resources** and shall be known as The James F.D. Lanier Home.

SECTION 83. IC 14-20-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Thousands of Hoosiers all over the nation have contributed toward the moving and restoration of this historic house and because the house has already proven to be an outstanding tourist attraction and in keeping with our great American heritage, it is the intent of this chapter that the department of commerce, the **Indiana library and historical department, the department of natural resources**, and other appropriate state boards and agencies give widespread publicity to this memorial by brochure, pamphlet, or other means.

SECTION 84. IC 14-21-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The division shall do the following:

(1) Develop a program of historical, architectural, and archeological research and development, including continuing surveys, excavations, scientific recording, interpretation, and publication of the state's historical, architectural, and archeological resources.

(2) Prepare a preservation plan for the state that establishes planning guidelines to encourage the continuous maintenance and integrity of historic sites and historic structures. However, the plan is not effective until the plan has been:

- (A) presented to the council for review and comment; and
- (B) approved by the review board after public hearing.

(3) Undertake the action necessary to qualify the state for participation in sources of federal aid to further the purposes stated in subdivisions (1) and (2).

(4) Provide information on historic sites and structures within Indiana to federal, state, and local governmental agencies, private individuals, and organizations.

(5) Advise and coordinate the activities of local historical associations, historic ~~district~~ **preservation** commissions, historic commissions, and other interested groups or persons.

(6) Provide technical and financial assistance to local historical associations, historic ~~district~~ **preservation** commissions, historic commissions, and other interested groups or persons.

(7) Review environmental impact statements as required by federal and state law for actions significantly affecting historic

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properties.

SECTION 85. IC 14-21-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. The division may do the following:

(1) Recommend the purchase, lease, or gift of historic property of archeological importance and make recommendations to the ~~director~~, council and ~~commission~~ **the commissioner** regarding policies affecting the operation and administration of these sites and structures by the section of historic sites of the division of state museums and historic sites.

(2) Prepare and review planning and research studies relating to archeology.

(3) Conduct a program of education in archeology, either within the division or in conjunction with an institution of higher education.

(4) Inspect and supervise an archeological field investigation authorized by this chapter.

SECTION 86. IC 14-21-1-13.5, AS AMENDED BY P.L.177-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

(1) The Indiana Historical Society established under IC 23-6-3.

(2) A historical society as defined in IC 20-5-17.5-1(a).

(3) The Historic Landmarks Foundation of Indiana.

(4) A professional archeologist or historian associated with a college or university.

(5) A township trustee.

(6) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the ~~director~~ **commissioner** considers appropriate. The ~~director~~ **commissioner** shall use a gift or grant received under this subsection:

(1) to carry out subsection (a); and

(2) according to the terms of the gift or grant.

(c) At the request of the ~~director~~, **commissioner**, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The ~~director~~ **commissioner** shall administer a trust fund

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established by subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

(h) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

SECTION 87. IC 14-21-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Any person may nominate a site or structure for addition to or removal from the register. Upon approval of the nomination by the division, all affected persons shall be notified.

(b) If an objection to the action is not filed with the division within thirty (30) days after the notification date, the nomination is automatically approved.

(c) If an objection is received within thirty (30) days, a designated member of the review board shall hold a hearing and make a determination. The review board shall make the final decision regarding a nomination ~~subject to administrative review by the commission~~ under IC 4-21.5.

SECTION 88. IC 14-21-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. The ~~director~~ **commissioner** is designated as the state historic preservation officer.

SECTION 89. IC 14-21-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) The historic preservation review board is established.

(b) The review board consists of nine (9) members as follows:

(1) The ~~director~~ **commissioner**.

(2) At least five (5) individuals meeting minimum professional requirements established by the United States Department of the Interior in 36 CFR, Part 61, as in effect on January 1, 1984.

(3) Professionals in the following disciplines:

(A) History.

(B) Prehistoric or historic archeology.

(C) Architecture or historical architecture.

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(c) The division director is a nonvoting advisor to the review board entitled to attend and participate in the proceedings of all meetings of the review board.

(d) The ~~director~~ **commissioner** shall, with the concurrence of the governor, appoint the members of the review board under subsection (b)(2) and (b)(3) for terms of three (3) years. The terms shall be staggered so that the terms of two (2) or three (3) members expire each year. A member may be reappointed.

(e) Appointments to the review board shall be made in accordance with 36 CFR, Part 60, and 36 CFR, Part 61, as in effect on January 1, 1984.

SECTION 90. IC 14-21-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. The ~~director~~ **commissioner** is chairman of the review board. The review board may select other officers that the review board determines.

SECTION 91. IC 14-21-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) The review board shall carry out the duties:

- (1) required by this chapter; and
- (2) as required under 16 U.S.C. 470 et seq. and the regulations relating to 16 U.S.C. 470 et seq.

(b) The review board shall also advise the division and the department as requested by the ~~director~~ **commissioner**.

SECTION 92. IC 14-21-1-25, AS AMENDED BY P.L.46-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) The ~~commission~~ **review board** shall adopt rules establishing standards for plans.

(b) With respect to archeological plans, the rules must impose a standard of conduct that does the following:

- (1) Promotes the scientific investigation and conservation of past cultures.
- (2) Considers the interests and expertise of amateur archeologists and professional archeologists.

(c) With respect to development plans, the rules must impose a standard of conduct that preserves and protects both of the following:

- (1) The rights and interests of landowners.
- (2) The sensitivity of human beings for treating human remains with respect and dignity, as determined by the ~~commission~~ **review board**.

(d) Plans required under this chapter must be submitted to the department for approval according to rules adopted by the ~~commission~~ **review board**.

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SECTION 93. IC 14-21-1-27, AS AMENDED BY P.L.14-2000, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) A person who disturbs buried human remains shall do the following:

(1) Notify the department within two (2) business days of the time of the disturbance.

(2) Treat or rebury the human remains in a manner and place according to rules adopted by the ~~commission~~ **review board** or a court order and permit issued by the state department of health under IC 23-14-57.

(b) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

SECTION 94. IC 14-21-1-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) The ~~commission~~ **review board** shall adopt rules under IC 4-22-2 to implement this chapter.

(b) When adopting rules under this chapter the ~~commission~~ **review board** shall consider the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity.

(3) The value of history and archeology as a guide to human activity.

(4) The importance of amateur archeologists in making historical, cultural, and archeological discoveries.

(5) Applicable laws, standards, and guidelines for the conduct of archeology and codes of ethics for participation in archeology.

SECTION 95. IC 14-34-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The director may not approve a permit application unless, in addition to the findings required by section 7 of this chapter, the director states in writing that the director has ~~considered~~ **consulted with the commissioner of the Indiana library and historical department concerning** the effects of the proposed mining operation on a place listed on or eligible for listing on the National Register of Historic Places or the Indiana state register of historic sites and structures.

(b) If the director considers it appropriate in accordance with rules adopted by the commission under this section, the director may impose conditions on a permit for the protection of properties or sites listed on or eligible for listing on the National Register of Historic Places or the Indiana state register of historic sites and structures requiring that:

(1) mining operations not occur in the areas occupied by the

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properties or sites; or

(2) measures be implemented to mitigate the effects of the operation upon those properties or sites before mining.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section consistent with the following general principles:

(1) The commission's rules may not prohibit the use of information from any source and shall recognize the responsibilities of the state historic preservation officer under IC 14-21-1-12 and IC 14-21-1-15.

(2) The commission's rules must provide for participation by professional and amateur archeologists, anthropologists, historians, or related experts in any:

(A) field investigations;

(B) studies; or

(C) records searches;

required by the director under this section.

(3) The commission's rules must strive to ensure that field investigations and studies are required only where a substantial likelihood exists that important and significant archeological or historic sites are present.

(4) In considering the effect of proposed surface coal mining and reclamation operations on a property or site eligible for listing on the National Register of Historic Places, the director shall consider the following:

(A) Based on information available from the division of historic preservation and archeology **of the Indiana library and historical department**, the relative importance of the property or site compared to other properties or sites in Indiana listed on or eligible for listing on the National Register of Historic Places.

(B) The cost of an investigation of the permit area or site as estimated by the applicant. A decision that an investigation is not required may not be based on cost alone.

(5) This section does not authorize rules that impair the ownership of artifacts or other material found on private land.

(d) The director may do the following:

(1) Investigate the possibility of obtaining available federal or private:

(A) grants;

(B) subsidies; or

(C) aid;

to defer the cost to private individuals of measures required by the

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1 director under this section.

2 (2) Apply for any:

3 (A) grants;

4 (B) aid; or

5 (C) subsidies;

6 that the director determines are available.

7 (e) In making the finding required by this section, the director shall
8 take into account the general principles set forth in subsection (c).

9 SECTION 96. IC 20-11-3-5.5 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. (a) As used in this
11 section, "concerned state agency" includes the following state agencies
12 that are inherently concerned with the mission of the coalition as stated
13 in section 1 of this chapter:

14 (1) The ~~state~~ **Indiana** library and historical ~~society~~ **department**.

15 (2) The department of workforce development.

16 (3) The department of correction.

17 (4) The office of the secretary of family and social services.

18 (5) The department of commerce.

19 (6) The department of education.

20 (b) The **commissioner**, director, **or secretary** of a concerned state
21 agency shall:

22 (1) appoint an ex officio member to serve on the coalition; and

23 (2) provide appropriate support to the coalition.

24 SECTION 97. IC 20-14-12-1.1 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.1. As used in this
26 chapter, "board" refers to the Indiana library ~~and historical~~ board
27 established under IC 4-23-7-2.

28 SECTION 98. IC 23-14-67-3.5 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. (a) Before March
30 1 of each year, a county cemetery commission shall file an annual
31 report with the ~~Indiana historical bureau~~ **division of historic**
32 **preservation and archeology** established by IC 4-23-7-3.

33 (b) An annual report filed under this section must include
34 information on the following:

35 (1) The budget of the county cemetery commission for the
36 preceding calendar year.

37 (2) Expenditures made by the county cemetery commission
38 during the preceding calendar year.

39 (3) Activities of the county cemetery commission during the
40 preceding calendar year.

41 (4) Plans of the county cemetery commission for the calendar year
42 during which the report is filed.

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(c) The ~~Indiana historical bureau~~ **division of historic preservation and archeology** shall make reports filed under this section available for public inspection under IC 5-14-3.

SECTION 99. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 5-15-5.1-4; IC 5-15-5.1-18.

SECTION 100. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 4-23-7.2-14; IC 4-23-7.2-15; IC 4-23-7.2-16; IC 4-23-7.2-17.

SECTION 101. [EFFECTIVE JULY 1, 2004] (a) **Notwithstanding IC 4-23-7.2-1, as amended by this act, the following additional definitions apply to IC 4-23-7.2, as amended by this act:**

(1) **"Division" means the division of state museums and historic sites established by IC 14-9-4-1.**

(2) **"State library" means the Indiana state library established by IC 4-23-7-3.**

(b) **Notwithstanding IC 4-23-7.2-7, as amended by this act, funds that are in the historical bureau publications and educational fund as of July 1, 2004, are transferred to the state library publications and educational fund established by IC 4-23-7.2-7, as amended by this act.**

(c) **Notwithstanding IC 4-23-7.2-8, as amended by this act, any duty required by the commissioner of the Indiana library and historical department shall be performed by the director of the Indiana state museum.**

(d) **On July 1, 2004:**

(1) **all powers, statutory duties, assets, fund balances, and liabilities of the Indiana historical bureau under IC 4-23-7.2-8, IC 4-23-7.2-10, and IC 4-23-7.2-12, all as amended by this act, are transferred to the Indiana state museum; and**

(2) **all other powers, statutory duties, assets, fund balances, and liabilities of the Indiana historical bureau under IC 4-23-7.2, as amended by this act, are transferred to the Indiana state library.**

(e) **This SECTION expires July 1, 2005.**

SECTION 102. [EFFECTIVE JANUARY 1, 2005] (a) **Notwithstanding IC 4-23-7-2, as amended by this act, the governor shall appoint two (2) additional members to the Indiana library and historical board. The initial terms of office for the two (2) individuals appointed are as follows:**

(1) **One (1) member for a term of one (1) year.**

(2) **One (1) member for a term of three (3) years.**

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1 (b) The initial terms begin January 1, 2005.

2 (c) This SECTION expires July 1, 2008.

3 SECTION 103. [EFFECTIVE JULY 1, 2005] (a) A member of the
4 Indiana library and historical board appointed under IC 4-23-7-2
5 (before its amendment by this act) shall continue to serve as a
6 member of the Indiana library board established by IC 4-23-7-2,
7 as amended by this act, until the end of the term for which the
8 member was appointed.

9 (b) This SECTION expires July 1, 2008.

10 SECTION 104. [EFFECTIVE JULY 1, 2005] (a) The division of
11 state museums and historic sites of the Indiana library and
12 historical department, as amended by this act, is a continuation of
13 the division of state museums and historic sites of the department
14 of natural resources.

15 (b) The rules adopted by the natural resources commission
16 concerning the division of state museums and historic sites of the
17 department of natural resources shall be treated, after June 30,
18 2005, as rules of the division of state museums and historic sites of
19 the Indiana library and historical department.

20 (c) On July 1, 2005, all powers, duties, assets, appropriations,
21 fund balances, and liabilities of the department of natural
22 resources that are attributable to the division of state museums and
23 historic sites are transferred to the division of state museums and
24 historic sites of the Indiana library and historical department.

25 (d) After June 30, 2005, a reference to the department of natural
26 resources in a statute or rule concerning the division of state
27 museums and historic sites shall be treated as a reference to the
28 division of state museums and historic sites of the Indiana library
29 and historical department.

30 (e) After June 30, 2005, a reference to the director of the
31 department of natural resources in a statute or rule concerning the
32 division of state museums and historic sites shall be treated as a
33 reference to the director of the division of state museums and
34 historic sites of the Indiana library and historical department.

35 SECTION 105. [EFFECTIVE JULY 1, 2005] (a) The division of
36 historic preservation and archeology of the Indiana library and
37 historical department, as amended by this act, is a continuation of
38 the division of historic preservation and archeology of the
39 department of natural resources.

40 (b) The rules adopted by the natural resources commission
41 concerning the division of historic preservation and archeology of
42 the department of natural resources shall be treated, after June 30,

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2005, as rules of the division of historic preservation and archeology of the Indiana library and historical department.

(c) On July 1, 2005, all powers, duties, assets, appropriations, fund balances, and liabilities of the department of natural resources that are attributable to the division of historic preservation and archeology are transferred to the division of historic preservation and archeology of the Indiana library and historical department.

(d) After June 30, 2005, a reference to the department of natural resources in a statute or rule concerning the division of historic preservation and archeology shall be treated as a reference to the division of historic preservation and archeology of the Indiana library and historical department.

(e) After June 30, 2005, a reference to the director of the department of natural resources in a statute or rule concerning the division of historic preservation and archeology shall be treated as a reference to the director of the division of historic preservation and archeology of the Indiana library and historical department.

SECTION 106. [EFFECTIVE JULY 1, 2005] (a) The Indiana state library of the Indiana library and historical department is a continuation of the commission on public records (IC 5-15-5.1, as amended by this act).

(b) The rules adopted by the commission on public records shall be treated, after June 30, 2005, as rules of the Indiana library board established by IC 4-23-7-2, as amended by this act.

(c) On July 1, 2005, all powers, duties, assets, appropriations, fund balances, and liabilities of the commission on public records are transferred to the Indiana state library of the Indiana library and historical department.

(d) After June 30, 2005, a reference to the commission on public records in a statute or rule shall be treated as a reference to the Indiana state library of the Indiana library and historical department.

(e) After June 30, 2005, a reference to the oversight committee on public records in a statute or rule shall be treated as a reference to the Indiana library board established by IC 4-23-7-2, as amended by this act.

SECTION 107. [EFFECTIVE JULY 1, 2004] (a) The legislative services agency shall prepare legislation for introduction in the 2005 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the Indiana library and historical department by this act.

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1 **(b) This SECTION expires June 30, 2005.**
 2 SECTION 108. [EFFECTIVE JULY 1, 2004] (a) The
 3 **appropriations for the Indiana historical bureau in P.L.224-2003,**
 4 **SECTION 9, for FY 2004-2005 for personal services and other**
 5 **operating expense are canceled.**
 6 **(b) This SECTION expires July 1, 2005.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 465, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 4 with "[EFFECTIVE JULY 1, 2004]".

Replace the effective dates in SECTIONS 22 through 35 with "[EFFECTIVE JULY 1, 2004]".

Replace the effective date in SECTION 98 with "[EFFECTIVE JULY 1, 2004]".

Replace the effective dates in SECTIONS 100 through 101 with "[EFFECTIVE JULY 1, 2004]".

Page 42, line 19, delete "April 1," and insert "**July 1,**".

Page 42, line 26, delete "April 1," and insert "**July 1,**".

Page 42, line 27, after "powers," insert "**statutory**".

Page 42, line 27, delete "appropriations,".

Page 42, line 32, after "powers," insert "**statutory**".

Page 42, line 32, delete "appropriations,".

Page 45, delete line 3, begin a new paragraph and insert:

"SECTION 108. [EFFECTIVE JULY 1, 2004] **(a) The appropriations for the Indiana historical bureau in P.L.224-2003, SECTION 9, for FY 2004-2005 for personal services and other operating expense are canceled.**

(b) This SECTION expires July 1, 2005."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 465 as introduced.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 7, Nays 0.

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